



**Community Development**  
10000 Centennial Parkway  
Sandy, Utah 84070  
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# Variance Request Application Requirements

Revised April 24, 2012

## **Board of Adjustment Authority**

Utah State law grants the Board of Adjustment its authority. Very specific guidelines are established by State law which restricts the Board's power and authority. The following text is from the Sandy City Development Code. It provides the framework under which the Board must consider a variance request:

### **15-01-32 Variances**

A. Any person, authorized agent in writing, or entity desiring a waiver or modification of the requirements of the zoning ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest, may apply to the Board of Adjustment for a variance from the terms of the zoning ordinance.

1. The Board of Adjustment may grant a variance only if:
  - a. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance;
  - b. There are special circumstances attached to the property that do not generally apply to other properties in the same district;
  - c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;
  - d. The variance will not substantially affect the general plan and will not be contrary to the public interest; and
  - e. The spirit of the zoning ordinance is observed and substantial justice done.
2. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under Subsection A 1, the Board of Adjustment may not find an unreasonable hardship unless the alleged hardship:
  - a. is located on or associated with the property for which the variance is sought; and
  - b. comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
2. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under Subsection A 1, the Board of Adjustment may not find an unreasonable hardship if the hardship is self-imposed or economic. A self-imposed hardship inflicted on a property by action of a previous owner shall not be reason for granting a variance to the current owner.
3. In determining whether or not there are special circumstances attached to the property under Subsection A 1, the Board of Adjustment may find that special circumstances exist only if the special circumstances:

- a. Relate to the hardship complained of; and
  - b. Deprive the property of privileges granted to other properties in the same district.
- B. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- C. Variances run with the land.
- D. The Board of Adjustment and any other body may not grant use variances.
- E. In granting a variance, the Board of Adjustment may impose additional requirements on the applicant that will:
1. Mitigate any harmful affects of the variance; or
  2. Serve the purpose of the standard or requirement that is waived or modified.

## **Application Requirements**

Complete the required application requirements for the Board of Adjustment (see below). In preparing your application and associated materials, be as detailed and specific as possible. Incomplete or inadequate information may result in your case being delayed or possibly denied. **The Board cannot grant a variance simply because an applicant has requested it.** The burden of proof rests upon you as the applicant to show that each of the required criteria are met. If you fail to support your request, the Board cannot approve your application.

## **Information Required For a Complete Submittal**

1. \_\_\_\_\_ **Completed Board of Adjustment Application Form** (Including proof of ownership of property or proof that applicant is a certified agent for property owner).
2. \_\_\_\_\_ Submit a **Plot Plan** drawn **to scale** on a minimum size paper of 8.5" x 11". The Plot Plan must include the following information (when applicable):
  - a. Actual lot dimension.
  - b. Size and locations of existing and proposed structures and improvements, including fences, driveways, and storage sheds.
  - c. Distances between all improvements and property lines.
3. \_\_\_\_\_ **Building elevations, floor plans and any other pertinent information** (when applicable).
4. \_\_\_\_\_ In a detailed **letter to the Board**, please answer the questions as outlined below to outline your request. Be as detailed as possible. Include all relevant information that will support your position.
  - a. What type of Variance are you seeking?
  - b. State the section of the Development Code where the requirement you want varied is found.
  - c. State why you desire to obtain and/or the purpose of the variance described above.
  - d. Complete the following findings of fact: (If you desire additional assistance or counsel, you are welcome to seek your own attorney.)
    1. Describe the hardship you will incur if the variance is not granted. (Economic hardship is not a lawful reason to obtain a variance under state law and local law.)
    2. Describe how this property is different from other property within the vicinity.
    3. Describe what benefit other properties in the vicinity with similar zoning enjoy that this property will not have without a variance.
    4. Describe why a variance will not deviate from the general purposes of the Sandy City Development Code.
    5. Describe how a variance conforms to the overall intent of the zoning laws and why it is fair that the variance be granted.
  - e. A brief statement of any previous variance on the subject property, the nature of the variance, and whether the variance was granted or denied.
  - f. State any other details about this appeal of which you want to make the Board aware.

**NOTE:** If you do not understand the questions or do not know the answer, please contact the Zoning Administrator for assistance. CITY EMPLOYEES CANNOT PROVIDE YOU WITH LEGAL ADVICE OR ADVISE OF YOUR CHANCES OF SUCCEEDING.

5. \_\_\_\_\_ **Legal Description and Address** of Property (when applicable)
6. \_\_\_\_\_ **Other Information** which will aid the Board of Adjustment in making a proper determination (as may be determined by the Planning Staff):
7. \_\_\_\_\_ **Property plat** with aerial photographs (Sidwell maps) from the Salt Lake County Recorder's Office, 2001 South State Street, Government Center, North Building, Salt Lake City, Utah. Your property should be clearly marked in red.
8. \_\_\_\_\_ **Names and Addresses of all Property Owners** of Current Record, including your own, within **300 feet** in all directions of the proposed project area, typed on mailing labels. (This information is available from the Salt Lake County Recorder's Office, 2001 S. State St.)
9. **Filing Fees:** \_\_\_\_\_ Non-Refundable (Verify fee with Staff)

Please remember that the information you submit will be the basis for review by the Board of Adjustment. Be as complete as possible. If you feel that additional information is needed (such as photographs, affidavits, or further written responses), please attach separate sheets. If you have any questions, please ask for assistance by calling Brian McCuistion at (801) 568-7268, Sandy City Zoning Administrator.

**NOTE:** It is required that each case up for hearing be presented and argued before the Board of Adjustment either by the petitioner or an authorized agent. If no one appears to argue your application, the Board may still hear the case and take action in your absence.

If for some reason you are unable to attend the meeting due to a personal emergency, you must call the Zoning Administrator at (801) 568-7268 no later than 5:00 p.m. on the day of the hearing. If no arrangements are made, the Board of Adjustment will hear and decide your case with or without your presence.

## **Appealing a Board of Adjustment Decision**

Any appeal of the decision of the Board of Adjustment must be made within thirty [30] days to the appropriate District Court of the State of Utah. The proper forms and procedure for filing such an appeal may be obtained from the District Court or the attorney of your choice. Sandy City **DOES NOT** have this information and cannot assist you in any way with the filing of any appeal of a Board of Adjustment decision. Copies of the case file, including all evidence submitted will be made available to interested parties. You may make a copy of the audio tape of the proceedings at our offices located at 10000 Centennial Parkway, Suite 210, Sandy, Utah.